

8 Q. At -- At that point in time, the afternoon
9 of the 23rd, did anybody else have any theories as to
10 what had happened?

11 A. Miss Hamilton had approached me with a
12 theory that Mr. Easton was not telling the truth to the
13 FCC when he told them that it was an error on their
14 side.

15 Q. Did Ms. Easton -- Did Ms. Hamilton discuss
16 with you what she had done with regard to the bidding
17 process that day?

18 A. Yes. She had come to me at some point in
19 the morning and we had gone through the -- the process
20 of what she had done. I think she felt that she just
21 wanted to make certain that she had done the right
22 things. So we went through what she had done that
23 morning, looking at the reports, comparing the figures.

24 Q. And did your review with Ms. Hamilton
25 support a conclusion that she had not created the error?

1 A. She had done -- She had followed the
2 procedures that she usually followed. She had checked
3 the reports against each other, which was the procedure
4 that was followed at that time. In doing so, she would
5 not have been able to recognize a bid that was out of
6 line. If the same bid appeared on all the reports and
7 all the numbers matched, the dollar amounts, the number

8 of pops, if they were all matching, she would check
9 those, see that they were all matching and consider the
10 bid to be okay.

Page 40

8 Q. So it is highly unlikely in light of those
9 matches that Ms. Hamilton caused the error?

10 A. In my opinion.

Page 42

9 Q. Did you ever hear Mr. Breen blame the FCC
10 for the bidding error?

11 A. No.

12 Q. Did you ever blame the FCC for the bidding
13 error?

14 A. No.

15 Q. Ms. Milstein, are you today convinced that
16 the bidding error did not originate with the FCC?

17 A. I would find it very, very hard to believe
18 that that's where it originated.

19 Q. Today, do you have any fixed causation that
20 you can point to for the bidding error?

21 A. Do I know 100 percent certain for fact
22 where the error occurred? No.

23 Q. Thank you.

24 On the 23rd of January 1996, you indicated
25 that you had conversations with Cynthia Hamilton about

Page 43

1 the bidding error, correct?

2 A. Yes.

3 Q. One of the -- One of the early ones, if not
4 the earliest one you indicated, was an occasion when you
5 went step by step through Cynthia's activities of that
6 day with her?

7 A. Yes.

8 Q. And you both emerged from that comfortable,
9 if not confident, that the bidding error had not
10 originated with her?

11 A. Certainly she had gone through -- she had
12 done -- taken the steps that she was expected to take.

13 Q. Did she on January 23rd, 1996, indicate to
14 you anything about the bidding -- the process by which
15 the bidding error came to be?

16 A. She didn't discuss the process in detail.
17 She gave me the impression that it was her belief that
18 Mr. Easton had made the error himself.

19 Q. Did she express any concern that Mr. Easton
20 was trying to avoid blame for the error?

21 A. Yes, she did.

22 Q. Did she express any concern that Mr. Easton
23 might try to blame her for the error?

24 A. In the discussion that we had had when we
25 had gone through procedures, it had seemed to me that

Page 44

1 she was quite nervous about being blamed for the error.

2 Q. Did she express an opinion about

3 Mr. Easton's theory that it was the FCC's fault?

4 A. Yes, she did.

5 Q. And what was her opinion?

6 A. Her opinion was that that was not the
7 truth; that he was lying.

8 Q. Did you have any other conversations about
9 the bidding error or the communication -- any
10 communications with the FCC with Ms. Hamilton that day?

11 A. I don't think so.

Page 46

23 Q. And in the ensuing moments or hour or two
24 after discovery of the bidding error, your primary focus
25 was getting that report prepared and in place?

Page 47

1 A. No, that was not my immediate concern. My
2 immediate concern was trying to keep everybody
3 relatively calm, to make sure that, you know, Terry was
4 able to get into contact with the people he needed to
5 contact, just to sort of keep things -- keep things
6 moving as sanely as possible while we tried to figure
7 out what was going on.

* * * * *

24 Q. When you did first see Mr. Breen after --
25 subsequent to the occurrence of the bidding error?

Page 48

1 A. The following morning.

2 Q. And where was that?

3 A. In the office.

4 Q. "The office" meaning the San Mateo Group?

5 A. San Mateo -- Office of the San Mateo Group.

6 Q. And what was your initial conversation with
7 Mr. Breen that morning?

8 A. I think I didn't get an opportunity to
9 speak to him for a little while. I think he came in
10 obviously, said his good mornings and, I think, went
11 straight and was on the phone.

12 When I did talk to him, I let him know that
13 it was Cynthia's feeling that Mr. Easton had made the
14 error and was trying to cover it up to the FCC. I told
15 him that she had faxed a letter of resignation which was
16 in his in box. That was about -- That was about it.

17 Q. In the course of that conversation with
18 Mr. Breen, did you and Mr. Breen discuss whether
19 Ms. Hamilton was concerned that she might be blamed for
20 the bidding error?

21 A. I think we touched on it. I'm not sure -
22 I - I don't know if he said, "Is she scared she's going
23 to get the blame?" - or - I think that's the way it
24 happened. I think he said to me "Is she scared she's
25 going to get blamed?" And I said yes, I thought she was

Page 49

1 quite scared and that's why she didn't want to be in the
2 office.

3 Q. Ms. Hamilton did not come into the office

4 on the 24th of January 1996, did she?

5 A. No, she didn't. She had left in the early
6 afternoon, I believe, of the 23rd.

7 Q. She did send a fax that day?

8 A. Yes. I think that arrived -- If I remember
9 rightly, that arrived late on the 23rd. Or it may have
10 been the next morning. But it was certainly close, in
11 which she just said that she would not be returning to
12 the office.

13 Q. And did you have a telephone conversation
14 with her that day?

15 A. I had a conversation with her -- you know,
16 the further away this gets, the harder it gets to
17 remember what happened in the afternoon, what happened
18 the following morning. But within that space of time --
19 I think it was the following day -- I believe it was the
20 24th, I had a conversation with her. She called, I
21 think, just to say that, you know, she had resigned, and
22 I said we'd received the fax. She said that she felt
23 that it was something she had to do. She felt a -- that
24 she could no longer work in that situation, and I said I
25 understood that. And I said, well, if it's -- something

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1 to the effect of "If that's what you feel that you have
2 to do, as long as you're not putting yourself in -- you
3 know, in some sort of terrible situation by just leaving
4 your job, then that's what you have to do."

5 Q. Was that conversation with Ms. Hamilton
6 before or after you discussed her resignation with
7 Mr. Breen?

8 A. I think it was before.

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19 Q. Do you know -- Back up.

20 Were you aware during that period between
21 the receipt of Miss Hamilton's resignation letter and
22 the time she came in to pick up her final paycheck if
23 she had any communication with any of the other people
24 at San Mateo Group?

25 A. I don't know if she did or not.

Page 57

1 Q. Did any of them indicate -- None of them
2 indicated to you that they had been talking to
3 Cynthia Hamilton?

4 A. No.

Page 60

19 Q. Did Ms. Hamilton request to speak with
20 anybody else at San Mateo Group other than you?

21 A. I don't think so.

22 Q. In speaking with you, did she express any
23 further opinion about Mr. Easton's activities on the
24 23rd?

25 A. No. Not on that occasion.

Page 61

1 Q. Did she request to speak with Mr. Easton?

2 A. No.

3 Q. Did she request to speak with Mr. Breen?

4 A. No.

5 Q. Do you know if she did speak with
6 Mr. Breen?

7 A. Yes, she did.

8 Q. Do you know how that encounter came to be?

9 A. There was a meeting going on in the
10 conference room, and the conference room had a glass
11 wall, so from the conference room, you could see people
12 who came into the office. And I think Mr. Breen saw
13 Cynthia come in and came out of the meeting and greeted
14 her, and then they went into his office with her friend.

15 Q. With her friend. Thank you.

16 Can you remember approximately how long
17 they were in Mr. Breen's office?

18 A. I don't think it was very long. Ten
19 minutes, fifteen minutes?

20 Q. And you were -- were you privy at all to
21 the substance of their conversation?

22 A. No. The door was closed.

23 Q. So it was a private meeting?

24 A. It was a private meeting.

25 Q. When Ms. Hamilton emerged from that

Page 62

1 meeting, did she give you any indication of what had
2 taken place in that meeting?

3 A. No.

4 Q. When Mr. Breen emerged, did he give you any
5 indication of what had taken place in that meeting?

6 A. No, he went straight back into the other
7 meeting.

* * * * *

16 Q. And do you understand -- Do you understand
17 that Mr. Breen is reported to have responded to
18 Ms. Hamilton by saying, "That's Terry being Terry"?

19 A. He responded that in answer to what
20 question?

21 Q. To --

22 A. To what comment?

23 Q. To Miss Hamilton telling him that
24 Mr. Easton had lied to the Commission about the source
25 of the bidding error.

Page 63

1 A. And Mr. Breen had replied...?

2 Q. "That's Terry being Terry."

3 A. I've heard that reported, yes.

4 Q. Could you tell us what the expression
5 "That's Terry being Terry" mean -- what that would mean
6 to someone from the San Mateo Group in that sort of
7 situation?

8 A. I don't know what it would have meant to
9 anybody else. If it had been said to me in that
10 situation -- It's hard for me to presume, but if it had

11 been said to me in that situation, I think -- Terry
12 didn't like to be wrong. And certainly he would try and
13 find another place for the fault to be rather than with
14 himself.

Page 66

18 Q. Ms. Milstein, are you familiar with the
19 memorandum opinion and order, hearing designation order,
20 notice of opportunity for hearing, and order to show
21 cause which initiated this proceeding against Westel?

22 A. I believe so. Could I just take a look
23 and -- the titles --

24 Q. Sure.

25 You have those --

Page 67

1 MS. POWER: Yeah, we know.

2 MR. WEBER: No objection if you show it to
3 the witness.

4 THE WITNESS: (Reviewing document.)

5 Yes.

6 MR. CARROCCIO: Q. While you have it, may
7 I direct your attention to paragraph 19 of this order,
8 which begins on page 9?

9 MR. WEBER: Do you want to introduce it as
10 an exhibit?

11 MR. CARROCCIO: It's an official document
12 in the proceedings.

13 MR. WEBER: I mean, we can take a note of

14 it. Just --

15 MR. CARROCCIO: I don't see any need to put
16 this in as an exhibit.

17 Q. Ms. Milstein, could you read that paragraph
18 as it carries over to page 10?

19 A. "Miss Milstein additionally testified --"

20 Q. No, no. Just read it to yourself --

21 A. Oh.

22 Q. -- to familiarize yourself with this.

23 A. Okay.

24 (Reviewing document.)

25 Um-hmm.

page 68

1 Q. Ms. Milstein, at the end of that paragraph,
2 there is a footnote, 61, indicating that for the last
3 sentence of that paragraph, it relies upon your
4 deposition, Milstein deposition transcript, at 31, 32.

5 A. I see that.

6 Q. Okay. Ms. Milstein, do you remember a time
7 when your deposition was taken with regards to the
8 Westel proceeding?

9 A. Yes, I do.

10 MS. POWER: That's one we don't need.

11 MR. CARROCCIO: Q. I'd like to hand you a
12 copy of what has been given to us as a transcript of
13 that deposition. Have you seen -- Was a copy of this
14 transcript delivered to you for review?

15 A. By whom?

16 Q. By the preparer of the transcript, the
17 court reporter, or by the taker of the deposition, the
18 Federal Communications Commission?

19 A. No.

20 Q. When your deposition was taken, did you --
21 were you asked if you would waive signature on your
22 deposition?

23 A. I don't remember that.

24 Q. Have you ever been asked to review your
25 deposition transcript to see if it is accurate?

Page 69

1 A. No.

2 Q. I would ask you to turn to page 31 of that
3 deposition, the page -- the first page that is cited in
4 footnote 61 of the hearing deposition order.

5 A. (Complies.)

6 Q. By the way, the witness having identified
7 this, I'm going to ask that the transcript of her former
8 deposition be introduced here as Exhibit No. 1 to her
9 deposition.

10 MR. WEBER: Fine.

11 MR. CARROCCIO: This current deposition.

12 MS. POWER: That's fine.

13 (EXHIBIT 1 WAS MARKED
14 FOR IDENTIFICATION.)

15 MR. CARROCCIO: Q. I'd like to direct your

16 attention to line 12 of that, of page 31, and ask you to
17 read from there through line 9 of the next page to
18 yourself, you would, please.

19 A. (Reviewing document.)

20 Okay.

21 Q. Now, having read that passage, I would ask
22 you to go back to paragraph 19 of the hearing
23 designation order, the last sentence.

24 A. Um-hmm. Okay.

25 Q. And read that again, please.

Page 70

1 A. (Reviewing document.)

2 Okay.

3 Q. Was it obvious to you, as stated in the
4 hearing designation order, that you were not telling
5 Mr. Breen, quote, "anything that he didn't already
6 realize"?

7 A. What was obvious to me and what I was
8 referring to when I said I was telling him -- that I
9 wasn't telling him anything he didn't already realize
10 was the fact that a statement had been made to the FCC
11 that there had been an error on their part.

12 Q. Not --

13 A. And this is --

14 Q. Not "an hour or there part [sic]"?

15 A. No. That there had been an error on their
16 part. And Mr. Breen knew that already. That's what I

17 was telling him that he didn't already realize.

18 Q. Now, Ms. Milstein, are you indicating that
19 if -- had you had the opportunity to review your
20 deposition transcript that you would have corrected --
21 made a correction at the top of page 32?

22 A. Yes.

23 Q. You did not say "that had been an hour or
24 there part [sic]?"

25 A. No, that doesn't make any sense.

Page 71

1 Q. What would you correct that to say?

2 A. That there had been an error on their part.

3 Q. And you've had -- not had an opportunity or
4 not been asked to review your transcript to see if there
5 are similar errors?

6 A. No.

Page 80

22 Q. You also discussed today your conversation
23 with Miss Hamilton on the 24th of January 1996, when she
24 called you to talk about resigning, how she could no
25 longer work at the company, and I believe you stated you

Page 81

1 told her you understood?

2 A. Um-hmm.

3 Q. Can you tell us what you mean by you
4 understood why she could no longer work for the company?

5 A. I think it was a couple of things, really.

6 First of all, I think that it would be very hard for her
7 to come back into that situation. I think she -- I
8 think she was concerned that somehow she would get the
9 blame for -- for what had happened. I think she -- I
10 believe she was genuinely upset and that she believed
11 that Mr. Easton was being less than truthful. And I
12 believe that that was a concern for her. And I think
13 because of those reasons, it was a very uncomfortable
14 place for her to be, and I understood her not wanting to
15 come back into that situation.

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5 Q. When you told Mr. Breen Cynthia's --
6 Miss Hamilton's allegations regarding Mr. Easton, what
7 was his reaction?

8 A. He was fairly calm. He listened, and I
9 think he -- he didn't make -- didn't go into any great
10 detailed response.

11 Q. Can you recall anything he said at all?

12 A. Well, as I said when we -- when we did this
13 in the last deposition, I -- he already knew that
14 that -- that this was what was going on that day. And
15 he was already sort of working on getting input from any
16 place he could about whatever had happened.

17 Q. Now, I want to be clear here or I want the
18 record to be clear here. When you say he already knew
19 this was going on that day, are you referring to that he
20 already knew that there were allegations that Mr. Easton

21 was lying to the Commission?

22 A. He already knew that a statement had been
23 made at some point that there had been an error in the
24 Commission's computer. He knew that statement had been
25 made. So when I said to him, "It's Cynthia's belief

Page 84

1 that Terry is lying to the Commission," and I -- when I
2 say that was something he already knew, he knew that a
3 statement had been made to the Commission saying that it
4 was an error on their part.

5 Q. At the time you spoke to Mr. Breen, had any
6 determination been made that it was not the FCC's fault
7 an error was made, but instead an error somewhere on
8 PCS 2000's side?

9 A. I'm not sure specifically what -- when that
10 determination was made. I believe that determination --
11 determination was made at either some point later on the
12 23rd when everybody had had a chance to talk or early on
13 the 24th. But I think that determination was made in
14 discussion with Mr. Easton, Mr. Sullivan, and Mr. Breen.
15 And I don't think that when I spoke to Mr. Breen I
16 really knew of a determination one way or the other.

Page 91

2 There was some discussion between you and
3 Mr. Weber about the independent counsel's report.

4 A. Yes.

5 Q. Were you interviewed for the independent

6 counsel's report?

7 A. Yes.

8 Q. Did you give a written statement in
9 connection with the independent counsel's report?

10 A. No.

11 Q. Did the authors to the independent
12 counsel's report preview with you their interpretation
13 of your statements prior to publishing that report?

14 A. No.

Page 92

22 Q. At the end of your cross-examination
23 with -- by Mr. Weber, you indicated that Mr. Breen did
24 not -- was not the type of person who became excited and
25 responded immediately to bits and pieces of information?

Page 93

1 A. That's correct.

2 Q. You further indicated that Mr. Breen tended
3 to collect information and evaluate it as a whole?

4 A. Correct.

5 Q. Was Mr. Breen's evaluation process a fast
6 process or a long, ongoing process as a general rule?

7 A. He didn't make snap decisions. If -- If he
8 felt that he needed time to make an informed decision,
9 he would take that time.

10 Q. Did you ever hear Mr. Breen use the
11 expression, "Time will give us the answer"?

12 A. Yes. Many times.

13 Q. Was that a regular expression of his?

14 A. Yes.

B

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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION

In Re:)
) Investigation
WESTTEL, L.P,)
WESTTEL SAMOA, L.P.)

Deposition of RONIT MILSTEIN, taken on behalf of the
Federal Communications Commission, at 4000 South El Camino
Road, Villa Hotel, Room 824, San Mateo, California on
Thursday, February 6, 1997, commencing at 12:55 p.m. before
Margaret Harris, Notary Public.

APPEARANCES

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1 was some consternation about the fact that we were running
2 late.

3 Q Was there a reason for running late?

4 A I don't know what that reason would be.

5 Q Did Mr. Easton prepare the bids alone for January
6 23rd?

7 A He was the only member of the bidding team in the
8 office, he may have consulted with Mr. Breen. It's a little
9 hard for me to separate what I know now from what I knew
10 then. From what I know now, I believe that he did talk to
11 Mr. Breen about the bids, but on that particular day I am
12 not sure that he did. It was typical that bids would be
13 discussed certainly with the other members of the bidding
14 team.

15 Q Why do you say from what you know now you think he
16 may have spoke to Mr. Breen?

17 A Because there's been a lot of obviously since
18 January 23rd, one year ago, there's been a lot of discussion
19 about what happened on that particular day. And I'm trying
20 very hard to separate what I knew on that day from things I
21 may have read since that, or been told since that.

22 Q Okay. Well, maybe I didn't make the question
23 clear. Has somebody told you, since January 23rd 1996, that
24 Mr. Easton did in fact speak to Mr. Breen?

25 A I believe there was a statement by Mr. Easton, in

1 one of the reports, that he spoke to Mr. Breen about the
2 bids. And it would be typical for that to happen.

3 Q Do you know where Mr. Breen was that day?

4 A He was in Oregon. He was in Oregon certainly in
5 the morning. I believe he left there to come down. He
6 had -- there had been some weather problems, I believe, and
7 I believe that he left there some time during the day to
8 come down to San Mateo.

9 Q Now, I realize this is only round eleven of the
10 bidding, but of the prior ten rounds, how many of them would
11 you say did Mr. Easton prepare the bids alone, or prepare --
12 being the only one in the office on the bidding team?

13 A I don't think he'd ever prepared the bids totally
14 alone. I think that the normal procedure was certainly to
15 do it in discussion with Mr. Breen and Mr. Lamoso. I am not
16 100 percent certain as to whether there had been another
17 occasion when he had been in the office, in the San Mateo
18 office, alone. I don't think there was. I think this may
19 have been the first time, but I cannot be 100 percent sure
20 of that.

21 Q After he prepared the initial bids, were those the
22 bids that were actually submitted or were there changes made
23 on January 23rd?

24 A I wasn't that involved with the bidding process to
25 know exactly what changes had been made. Again, I

1 she checked against. I believe that -- I think she would
2 have checked the total amount of the bid, the total number
3 of POPS. I am not sure, at that point, whether they were
4 put in all the reports in front of them and checking them
5 item by item, because I was not, you know, doing it day by
6 day at that point, I am not sure exactly what was being
7 checked against what.

8 Q That's fair enough. At the computer at Ms.
9 Hamilton's station, did she have the ability to make changes
10 to any of the bids personally, I mean if she wanted to alter
11 a bid, could she do it?

12 A I suppose she could have done it. There was
13 certainly -- there was a point in the bidding procedure, in
14 the FCC software, where you were directly on-line
15 immediately before you submitted the bid. I think
16 conceivably one could have changed a number real time before
17 the bid was submitted.

18 Q On January 23rd, who was the first person to
19 notice there was an over-bid for one market?

20 A I think I was.

21 Q Can you recall approximately what time it is you
22 recognized this over-bid?

23 A It would have been a short time after the results
24 came out, after withdrawal. And I believe that would put it
25 at about some time after 11:00. That's when the results,

1 after withdrawal, came out.

2 Q And by withdrawal, you're referring to the time
3 where the FCC rules allowed bids to be withdrawn?

4 A Correct.

5 Q And not the time where the PCS 2000 bid for
6 Norfolk was withdrawn, correct?

7 A I'm sorry, could you repeat that?

8 Q You are not referring to the time when PCS 2000
9 withdrew its bid for the Norfolk market?

10 A No. I'm referring -- because I believe that was
11 the following day, and the next opportunity that one had.
12 There were -- the way our system was set up, there was
13 another computer in another office that downloaded from the
14 Internet the results before withdrawal and after withdrawal,
15 and we had created reports which divided them out by bidder,
16 so that one could see fairly quickly what other people had
17 bid for, what markets they were high on, which markets PCS
18 2000 was high on. I did not see the reports before the
19 withdrawal period. I was in that office for some other
20 reason and saw the after withdrawal reports there on the
21 printer, and picked this up to take those -- we had a basket
22 in the conference room where those reports were placed for
23 review.

24 And obviously when I picked up that report and
25 looked at it to see which markets we were high on and the

1 results of that day's bidding, I saw that the bid -- and the
2 report that we had created from the Internet download had
3 the per POP price, and that's what I noticed first of all.

4 Q And per POP, you mean the number of dollars per
5 person in the market?

6 A That's correct.

7 Q Was it one of your responsibilities at that time
8 to review these reports, the after withdrawal reports?

9 A No.

10 Q What did you do, upon noticing the over-bid --
11 what market did you notice the over-bid for?

12 A For Norfolk.

13 Q What did you do upon seeing the over-bid for
14 Norfolk?

15 A I paged Terry and said that I felt there was
16 something very wrong because it was obviously quite out of
17 line with what it should have been.

18 Q And were you in his office when you told him?

19 A No, I think I was at the door of the conference
20 room.

21 Q Was Ms. Hamilton in the vicinity when you spoke to
22 -- by Terry, you mean Mr. Easton?

23 A I do mean Mr. Easton. I believe she was in the
24 general vicinity, it was the sort of open part of the
25 office, sort of in the center of the office.